

Union Calendar No. 201

104TH CONGRESS
1ST Session

H. R. 2243

[Report No. 104-395]

A BILL

To amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes.

DECEMBER 11, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. RIGGS (for himself and Mr. HERGER) introduced the following bill; which was referred to the Committee on Resources

DECEMBER 11, 1995

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[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on August 4, 1995]

A BILL

To amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Trinity River Basin*
 3 *Fish and Wildlife Management Reauthorization Act of*
 4 *1995”.*

5 **SEC. 2. CLARIFICATION OF FINDINGS.**

6 *Section 1 of the Act entitled “An Act to provide for*
 7 *the restoration of the fish and wildlife in the Trinity River*
 8 *Basin, California, and for other purposes”, approved Octo-*
 9 *ber 24, 1984 (98 Stat. 2721), as amended, is amended—*

10 *(1) by redesignating paragraphs (5) and (6) as*
 11 *paragraphs (6) and (7), respectively;*

12 *(2) by adding after paragraph (4) the following:*

13 *“(5) Trinity Basin fisheries restoration is to be*
 14 *measured not only by returning adult anadromous*
 15 *fish spawners, but by the ability of dependent tribal,*
 16 *commercial, and sport fisheries to participate fully,*
 17 *through enhanced in-river and ocean harvest opportu-*
 18 *nities, in the benefits of restoration;”;* and

19 *(3) by amending paragraph (7), as so redesign-*
 20 *ated, to read as follows:*

21 *“(7) the Secretary requires additional authority*
 22 *to implement a management program, in conjunction*
 23 *with other appropriate agencies, to achieve the long-*
 24 *term goals of restoring fish and wildlife populations*
 25 *in the Trinity River Basin, and, to the extent these*
 26 *restored populations will contribute to ocean popu-*

1 *lations of adult salmon, steelhead, and other anad-*
 2 *romous fish, such management program will aid in*
 3 *the resumption of commercial, including ocean har-*
 4 *vest, and recreational fishing activities.”.*

5 **SEC. 3. CHANGES TO MANAGEMENT PROGRAM.**

6 (a) *OCEAN FISH LEVELS.*—Section 2(a) of the Act en-
 7 *titled “An Act to provide for the restoration of the fish and*
 8 *wildlife in the Trinity River Basin, California, and for*
 9 *other purposes”, approved October 24, 1984 (98 Stat. 2722),*
 10 *as amended, is amended—*

11 (1) *in the matter preceding paragraph (1)—*

12 (A) *by inserting “, in consultation with the*
 13 *Secretary of Commerce where appropriate,” after*
 14 *“Secretary”; and*

15 (B) *by adding the following after “such lev-*
 16 *els.”: “To the extent these restored fish and wild-*
 17 *life populations will contribute to ocean popu-*
 18 *lations of adult salmon, steelhead, and other*
 19 *anadromous fish, such management program is*
 20 *intended to aid in the resumption of commercial,*
 21 *including ocean harvest, and recreational fishing*
 22 *activities.”.*

23 (b) *FISH HABITATS IN THE KLAMATH RIVER.*—Para-
 24 *graph (1)(A) of such section (98 Stat. 2722) is amended*
 25 *by striking “Weitchpec;” and inserting “Weitchpec and in*

1 *the Klamath River downstream of the confluence with the*
 2 *Trinity River;”.*

3 (c) *TRINITY RIVER FISH HATCHERY.*—Paragraph
 4 (1)(C) of such section (98 Stat. 2722) is amended by insert-
 5 ing before the period the following: “, so that it can best
 6 serve its purpose of mitigation of fish habitat loss above
 7 Lewiston Dam while not impairing efforts to restore and
 8 maintain naturally reproducing anadromous fish stocks
 9 within the basin”.

10 (d) *ADDITION OF INDIAN TRIBES.*—Section 2(b)(2) of
 11 such Act (98 Stat. 2722) is amended by striking “tribe”
 12 and inserting “tribes”.

13 ***SEC. 4. ADDITIONS TO TASK FORCE.***

14 (a) *IN GENERAL.*—Section 3(a) of the Act entitled “An
 15 Act to provide for the restoration of the fish and wildlife
 16 in the Trinity River Basin, California, and for other pur-
 17 poses”, approved October 24, 1984 (98 Stat. 2722), as
 18 amended, is amended—

19 (1) by striking “fourteen” and inserting “nine-
 20 teen”;

21 (2) by striking “United States Soil Conservation
 22 Service” in paragraph (10) and inserting “Natural
 23 Resources Soil and Conservation Service”; and

24 (3) by inserting after paragraph (14) the follow-
 25 ing:

1 “(15) One individual to be appointed by the
2 *Yurok Tribe.*

3 “(16) One individual to be appointed by the
4 *Karuk Tribe.*

5 “(17) One individual to represent commercial
6 *fishing interests, to be appointed by the Secretary*
7 *after consultation with the Board of Directors of the*
8 *Pacific Coast Federation of Fishermen’s Associations.*

9 “(18) One individual to represent sport fishing
10 *interests, to be appointed by the Secretary after con-*
11 *sultation with the Board of Directors of the Califor-*
12 *nia Advisory Committee on Salmon and Steelhead*
13 *Trout.*

14 “(19) One individual to be appointed by the Sec-
15 *retary, in consultation with the Secretary of Agri-*
16 *culture, to represent the timber industry.”.*

17 (b) *COORDINATION.*—Section 3 of such Act (98 Stat.
18 2722) is further amended by adding at the end thereof the
19 *following new subsection:*

20 “(d) *Task Force actions or management on the Klam-*
21 *ath River from Weitchpec downstream to the Pacific Ocean*
22 *shall be coordinated with, and conducted with the full*
23 *knowledge of, the Klamath River Basin Fisheries Task*
24 *Force and the Klamath Fishery Management Council, as*
25 *established under Public Law 99–552. The Secretary shall*

1 *appoint a designated representative to ensure such coordi-*
 2 *nation and the exchange of information between the Trinity*
 3 *River Task Force and these two entities.”.*

4 *(c) REIMBURSEMENT.—Section 3(c)(2) of such Act (98*
 5 *Stat. 2723) is amended by adding at the end the following:*
 6 *“Members of the Task Force who are not full-time officers*
 7 *or employees of the United States, the State of California*
 8 *(or a political subdivision thereof), or an Indian tribe, may*
 9 *be reimbursed for such expenses as may be incurred by rea-*
 10 *son of their service on the Task Force, as consistent with*
 11 *applicable laws and regulations.”.*

12 *(d) EFFECTIVE DATE.—The amendments made by*
 13 *subsection (a) shall apply with respect to actions taken by*
 14 *the Trinity River Basin Fish and Wildlife Task Force on*
 15 *and after 120 days after the date of the enactment of this*
 16 *Act.*

17 **SEC. 5. APPROPRIATIONS.**

18 *(a) EXTENSION OF AUTHORIZATION.—Section 4(a) of*
 19 *the Act entitled “An Act to provide for the restoration of*
 20 *the fish and wildlife in the Trinity River Basin, California,*
 21 *and for other purposes”, approved October 24, 1984 (98*
 22 *Stat. 2723), as amended, is amended—*

23 *(1) in paragraph (1), by striking “October 1,*
 24 *1995” and inserting in lieu thereof “October 1, 1998”;*
 25 *and*

1 (2) in paragraph (2), by striking “ten-year” and
2 inserting in lieu thereof “13-year”.

3 (b) *IN-KIND SERVICES; OVERHEAD; AND FINANCIAL*
4 *AND AUDIT REPORTS.*—Section 4 of such Act (98 Stat.
5 2724) is amended—

6 (1) by designating subsection (d) as subsection
7 (h); and

8 (2) by inserting after subsection (c) the following
9 new subsections:

10 “(d) The Secretary is authorized to accept in-kind
11 services as payment for obligations incurred under sub-
12 section (b)(1).

13 “(e) Not more than 20 percent of the amounts appro-
14 priated under subsection (a) may be used for overhead and
15 indirect costs. For the purposes of this subsection, the term
16 ‘overhead and indirect costs’ means costs incurred in sup-
17 port of accomplishing specific work activities and jobs. Such
18 costs are primarily administrative in nature and are such
19 that they cannot be practically identified and charged di-
20 rectly to a project or activity and must be distributed to
21 all jobs on an equitable basis. Such costs include compensa-
22 tion for administrative staff, general staff training, rent,
23 travel expenses, communications, utility charges, mis-
24 cellaneous materials and supplies, janitorial services, depre-
25 ciation and replacement expenses on capitalized equipment.

1 *Such costs do not include inspection and design of construc-*
2 *tion projects and environmental compliance activities, in-*
3 *cluding (but not limited to) preparation of documents in*
4 *compliance with the National Environmental Policy Act of*
5 *1969.*

6 “(f) *Not later than December 31 of each year, the Sec-*
7 *retary shall prepare reports documenting and detailing all*
8 *expenditures incurred under this Act for the fiscal year end-*
9 *ing on September 30 of that same year. Such reports shall*
10 *contain information adequate for the public to determine*
11 *how such funds were used to carry out the purposes of this*
12 *Act. Copies of such reports shall be submitted to the Com-*
13 *mittee on Resources of the House of Representatives and the*
14 *Committee on Energy and Natural Resources of the Senate.*

15 “(g) *The Secretary shall periodically conduct a pro-*
16 *grammatic audit of the in-river fishery monitoring and en-*
17 *forcement programs under this Act and submit a report*
18 *concerning such audit to the Committee on Resources of the*
19 *House of Representatives and the Committee on Energy and*
20 *Natural Resources of the Senate.”.*

21 (c) *AUTHORITY TO SEEK APPROPRIATIONS.—Section*
22 *4 of such Act, as amended by subsection (b) of this section,*
23 *is further amended by inserting after subsection (h) the fol-*
24 *lowing new subsection:*

1 “(i) *Beginning in the fiscal year immediately follow-*
 2 *ing the year the restoration effort is completed and annu-*
 3 *ally thereafter, the Secretary is authorized to seek appro-*
 4 *priations as necessary to monitor, evaluate, and maintain*
 5 *program investments and fish and wildlife populations in*
 6 *the Trinity River Basin for the purpose of achieving long-*
 7 *term fish and wildlife restoration goals.”.*

8 **SEC. 6. NO RIGHTS AFFECTED.**

9 *The Act entitled “An Act to provide for the restoration*
 10 *of the fish and wildlife in the Trinity River Basin, Califor-*
 11 *nia, and for other purposes”, approved October 24, 1984*
 12 *(98 Stat. 2721), as amended, is further amended by insert-*
 13 *ing at the end thereof the following:*

14 **“PRESERVATION OF RIGHTS**

15 **“SEC. 5. Nothing in this Act shall be construed as es-**
 16 *tablishing or affecting any past, present, or future rights*
 17 *of any Indian or Indian tribe or any other individual or*
 18 *entity.”.*

19 **SEC. 7. SHORT TITLE OF 1984 ACT.**

20 *The Act entitled “An Act to provide for the restoration*
 21 *of the fish and wildlife in the Trinity River Basin, Califor-*
 22 *nia, and for other purposes”, approved October 24, 1984*
 23 *(98 Stat. 2721), as amended by section 6 of this Act, is*
 24 *further amended by adding at the end the following:*

- 1 “*SHORT TITLE*
- 2 “*SEC. 6. This Act may be cited as the ‘Trinity River*
- 3 *Basin Fish and Wildlife Management Act of 1984’.*”.